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HOME (ELECTIONS) DEPARTMENT

NOTIFICATION

The 19th January, 2022

No.350-EC-MISC-0008-2020/Elec.— The following notification issued by Election Commission of India, New Delhi is hereby republished in the Gazette of Government of Odisha for general information.

By Order,

SUSHIL KUMAR LOHANI

Chief Electoral Officer & *Ex Officio*
Principal Secretary to Government

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/ECI/ORD/TERR/ES-II/OR-LA/59/2019

Dated: 4th January, 2022

14, Pausa, 1943 (Saka)

ORDER

1. **WHEREAS**, the Commission had declared to hold the General Election to the Legislative Assembly of Odisha to **59-Pallahara Assembly Constituency** vide its Notification dated **28.03.2019** and **Shri Binoda Bihari Boita, Bahujan Samaj Party**, had contested the aforesaid election;

2. **AND WHEREAS**, as per Section 77 (1) of the Representation of the People Act, 1951, every candidate at election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between (the date on which he has been nominated) and the date of declaration of the result thereof, both dates inclusive and as per Section 78 of the Representation of the People Act, 1951, every contesting candidate

at an election shall, within thirty days from the date of election of the returned candidate lodge with the District Election Officer (DEO) account of his election expenses which shall be in a true copy of the account kept by him or by his election agent under Section 77.

3. **AND WHEREAS**, as per the report under rule 89(2) of the Conduct of Election Rules, 1961, submitted by the District Election Officer, **Angul**, District, Odisha through the Chief Electoral Officer's letter No. V (EEM)-245/2019-14921/Elec. dated 26.09.2019, **Shri Binoda Bihari Boita**, contesting candidate from **59-Pallahara** Assembly Constituency of Odisha, has failed to lodge any account of his election expenses as required by law.

4. **AND WHEREAS**, on the basis of the reports of the District Election Officer, **Angul**, District, Odisha and the Chief Electoral Officer, Odisha, a Show Cause notice dated **18.12.2019** was issued by the Election Commission of India under Sub Rule (5) of Rule 89 of the Conduct of Election Rules, 1961 to **Shri Binoda Bihari Boita**, for non-submission of account of Election expenses;

5. **AND WHEREAS**, as per Sub Rule (6) of Rule 89 of the Conduct of Election Rules, 1961, through the above said Show Cause Notice dated **18.12.2019**, **Shri Binoda Bihari Boita**, was directed to submit his representation in writing to the Commission explaining the reason for nonsubmission of accounts and also to lodge his accounts of election expenses/rectify the defects in his accounts and submit the same with the District Election Officer concerned within 20 days from the date of receipt of the notice;

6. **AND WHEREAS**, the said notice was received by **Shri Binoda Bihari Boita (self)** on **23.01.2020**. Acknowledgment receipt obtained from the candidate has been submitted to the Commission by District Election Officer, **Angul** vide his letter No. 146/Elec. dated 18th May, 2020.

7. **AND WHEREAS**, in the supplementary report submitted by District Election Officer, **Angul** vide his letter No. 336/File No. IX/6/21 dated 18th November, 2021, it has been stated that **Shri Binoda Bihari Boita** has not submitted any representation or a statement of correct account of his election expenses, duly signed along with original vouchers. Further, he has neither furnished any reason nor explanation for the said failure even after receipt of the due notice to the Election Commission of India as well;

8. **AND WHEREAS**, the Commission satisfied that **Shri Binoda Bihari Boita** has failed to lodge an account of election expenses and has no good reason or justification for the said failure;

9. **AND WHEREAS**, Section 10 A of the Representation of the People Act, 1951 stipulates that: -

“If the Election Commission is satisfied that a person-

- (a) Has failed to lodge an account of election expenses within the time and in the manner required by law or under this Act; and
- (b) Has no good reason or justification for the failure the Election Commission shall by order published in the official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from date of the order;

10. **NOW THEREFORE**, in pursuance of Section 10 A of the Representation of the People Act, 1951, the Election Commission of India hereby declares **Shri Binoda Bihari Boita**, At/PO- Deranga, PS-Kanhia, Odisha the contesting candidate for the General Election to the Legislative Assembly of Odisha, 2019 from **59-Pallahara Assembly Constituency** of the State of Odisha to be disqualified for being chosen as and for being a member of either House of Parliament or the Legislative Assembly or Legislative Council of a State or Union Territory for a period of three years from the date of this order.

By order,

**RAKESH KUMAR
SECRETARY**

**Shri Binoda Bihari Boita,
At/PO- Deranga,
PS-Kanhia, Odisha**